

1-1 By: Huffman S.B. No. 780
1-2 (In the Senate - Filed February 25, 2015; March 2, 2015,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 May 7, 2015, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; May 7, 2015, sent
1-6 to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Whitmire	X		
1-10	Huffman	X		
1-11	Burton	X		
1-12	Creighton	X		
1-13	Hinojosa	X		
1-14	Menéndez	X		
1-15	Perry	X		

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 780 By: Huffman

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the preservation of toxicological evidence collected in
1-20 connection with certain intoxication offenses.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Chapter 38, Code of Criminal Procedure, is
1-23 amended by adding Article 38.50 to read as follows:

1-24 Art. 38.50. RETENTION AND PRESERVATION OF TOXICOLOGICAL
1-25 EVIDENCE OF CERTAIN INTOXICATION OFFENSES. (a) In this article,
1-26 "toxicological evidence" means a blood or urine specimen that was
1-27 collected as part of an investigation of an alleged offense under
1-28 Chapter 49, Penal Code.

1-29 (b) This article applies to a governmental or public entity
1-30 or an individual, including a law enforcement agency, prosecutor's
1-31 office, or crime laboratory, that is charged with the collection,
1-32 storage, preservation, analysis, or retrieval of toxicological
1-33 evidence.

1-34 (c) An entity or individual described by Subsection (b)
1-35 shall ensure that toxicological evidence collected pursuant to an
1-36 investigation or prosecution of an offense under Chapter 49, Penal
1-37 Code, is retained and preserved, as applicable:

1-38 (1) for the greater of two years or the period of the
1-39 statute of limitations for the offense, if the indictment or
1-40 information charging the defendant, or the petition in a juvenile
1-41 proceeding, has not been presented;

1-42 (2) for the duration of a defendant's sentence or term
1-43 of community supervision, as applicable, if the defendant is
1-44 convicted or placed on community supervision, or for the duration
1-45 of the commitment or supervision period applicable to the
1-46 disposition of a juvenile adjudicated as having engaged in
1-47 delinquent conduct or conduct indicating a need for supervision; or

1-48 (3) until the defendant is acquitted or the indictment
1-49 or information is dismissed with prejudice, or, in a juvenile
1-50 proceeding, until a hearing is held and the court does not find the
1-51 child engaged in delinquent conduct or conduct indicating a need
1-52 for supervision.

1-53 (d) For each offense subject to this article, the court
1-54 shall determine as soon as practicable the appropriate retention
1-55 and preservation period for the toxicological evidence under
1-56 Subsection (c) and notify the defendant or the child or child's
1-57 guardian and the entity or individual charged with storage of the
1-58 toxicological evidence of the period for which the evidence is to be
1-59 retained and preserved. If an action of the prosecutor or the court
1-60 changes the applicable period under Subsection (c), the court shall

2-1 notify the persons described by this subsection about the change.
2-2 (e) The entity or individual charged with storing
2-3 toxicological evidence may destroy the evidence on expiration of
2-4 the period provided by the notice most recently issued by the court
2-5 under Subsection (d).

2-6 (f) To the extent of any conflict between this article and
2-7 Article 2.21 or 38.43, this article controls.

2-8 SECTION 2. Article 38.50, Code of Criminal Procedure, as
2-9 added by this Act, applies to all toxicological evidence stored by
2-10 an entity or individual on or after the effective date of this Act,
2-11 regardless of whether the evidence was collected before, on, or
2-12 after the effective date of this Act.

2-13 SECTION 3. This Act takes effect September 1, 2015.

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